IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8288 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE S.D.DAVE

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements?

2. To be referred to the Reporter or not?

3. Whether Their Lordships wish to see the fair copy of the judgement?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?

5. Whether it is to be circulated to the Civil Judge?

(No.1 to 5 NO)

BHIKHAJI MAGANJI THAKORE

Versus

STATE OF GUJARAT

Appearance:

MR YN OZA for Petitioner

MR. T.H.SOMPURA,LD.GOVT. PLEADER for Respondent No.1,2,3

CORAM : MR.JUSTICE S.D.DAVE

Date of decision: 29/01/97

ORAL JUDGEMENT

The petitioner before me happens to be one Bhikaji Maganji Thakore. He appears to be the holder of the land. The Competent Authority under the ULC by the orders dated October 30, 1991, upon a consideration of the relevant material had come to the conclusion that, the excess vacant land would be 3545 sq. meters. This orders passed by the Competent Authority were taken in

appeal before the Urban Land Tribunal, Ahmedabad, by filing Appeal No. Ahmedabad-25/95. This appeal came to be decided, dismissed and disposed of by the Tribunal under the orders dated August 16, 1995. The Tribunal was pleased to place the question regarding the limitation in forefront. Going through the case, it appears, the Tribunal had found that there was no sufficient cause advanced by the appellant to condone the delay and that there was no valid reason to condone the delay in filing the appeal. Having come to this conclusion, the Tribunal has dismissed the appeal under the orders dated August 16, 1995. The said orders are in challenge in the present proceedings before me.

When the matter reaches for hearing before me, there has been a new development which shall have an important bearing on the question of the holding of the holder-the petitioner. The petitioner holder had presented a Scheme under section 21 of the ULC Act, 1976. Ultimately the matter was carried to this Court by filing Special Civil Application No. 7880 of 1996. The said petition came to be decided by learned Single Judge of this Court under the decision dated November 02, 1996. It appears that, all what had been done by the ULC authorities have been quashed and set aside and the Respondent No.3 therein has been directed to issue the notice to the petitioner and to grant him an opportunity to submit his own case, which was required to be decided in accordance with law within a limited time frame. The net effect of this orders dated November 02, 1996, is that the whole question regarding the sanctioning or otherwise of the Scheme under section 21 of the ULC Act, 1976, is once again open before the appropriate authority.

If the above said Scheme is to be sanctioned, necessarily it shall have an important bearing on the question of the holding of the petitioner. In view of this, the present petition requires to be granted and the orders under challenge require to be quashed and set aside. The matter requires to be remanded to the Competent Authority for a fresh decision. This should be done only after the proceedings under Section 21 of the ULC Act, 1976 are finalised. I order accordingly. Rule is made absolute to the said extent only, with no order as to cost.
